

DECLARATION OF BRENDAN MCSHANE

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD GIBSON, and HERIBERTO
VALIENTE,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,
CENDYN GROUP, LLC, THE
RAINMAKER GROUP UNLIMITED, INC.,
CAESARS ENTERTAINMENT INC.,
TREASURE ISLAND, LLC, WYNN
RESORTS HOLDINGS, LLC,

Defendants.

Case No. 2:23-cv-00140-MMD-DJA

**DECLARATION OF BRENDAN MCSHANE
IN SUPPORT OF CERTAIN DEFENDANTS'
MOTION TO PARTIALLY STAY
DISCOVERY**

1 I, Brendan McShane, declare as follows:

2 1. I am partner with the law firm Latham & Watkins LLP, attorneys for Defendant
3 Cendyn Group, LLC in connection with this action. I submit this declaration in support of Certain
4 Defendants' Motion to Partially Stay Discovery. Unless otherwise stated, I have personal
5 knowledge of the facts set forth below and, if called upon, can and will competently testify thereto.

6 2. As described in the parties' Joint Proposed Discovery Plan, ECF No. 111, the
7 parties conducted the conference required by Federal Rule of Civil Procedure 26(f) on April 24,
8 May 9, and May 10, 2023.

9 3. On April 14, 2023, in advance of the parties' Rule 26(f) conference, plaintiffs'
10 counsel emailed defense counsel drafts of the following: Plaintiffs' First Set of Interrogatories to
11 Operator Defendants; Plaintiffs' First Set of Interrogatories to Defendants Cendyn Group, LLC
12 and the Rainmaker Group Unlimited, Inc.; Plaintiffs' First Set of Requests for Production of
13 Documents to Operator Defendants; and Plaintiffs First Set of Requests for Production of
14 Documents to Defendants Cendyn Group, LLC and the Rainmaker Group Unlimited, Inc.
15 (collectively, "Draft Discovery Requests").

16 4. During the April 24, 2023 conference between the parties, counsel for the moving
17 defendants took the position that discovery should be stayed pending defendants' Joint Motion to
18 Dismiss (ECF 91), but offered as part of a compromise to answer two interrogatories and a request
19 for production from the Draft Discovery Requests that plaintiffs sent on April 14, 2023.
20 Defendants also offered to negotiate a Protective Order and ESI Protocol while the motion to
21 dismiss was pending

22 5. On May 8, 2023, plaintiffs' counsel emailed defense counsel, attaching updated
23 discovery requests ("Updated Discovery Requests") and indicating that those Updated Discovery
24 Requests "are served upon [defendants]" via that email. In that same email, plaintiffs' counsel
25 responded to defendants' proposal regarding discovery and counter-proposed that each defendant
26 answer all of the interrogatories served and produce documents responsive to certain requests for
27 production ("Requests") (Request Nos. 3, 4, 52, 53 and 54 for the Hotel Defendants and Request
28 Nos. 3, 4, 5, 46, and 47 for defendants Cendyn and Rainmaker) by July 10, 2023. Plaintiffs'

counsel further proposed that the parties negotiate the responses and objections, search terms, and custodians for all other document requests by October 9, 2023. The following day, on May 9, plaintiffs' counsel further indicated during a phone conference that plaintiffs requested all defendants respond to Request No. 1 in addition to those Requests cited in their email.

6. During the May 9 and 10 conferences, the parties again discussed their positions regarding the appropriate scope of discovery pending resolution of defendants' motions to dismiss. Plaintiffs reiterated the position put forward in their May 8 email, and moving defendants reiterated their April 24 proposal. The parties conferred in good faith, but were unable to reach a resolution regarding the scope of discovery during the pendency of the motions to dismiss.

7. To assist the Court in evaluating the motion to stay discovery, true and correct copies of the following documents are provided:

Exhibit A	Email from A. Wolf to defense counsel, dated May 8, 2023
Exhibit B	Plaintiffs' First Set of Requests for Production of Documents to Operator Defendants
Exhibit C	Plaintiffs First Set of Requests for Production of Documents to Defendants Cendyn Group, LLC and the Rainmaker Group Unlimited, Inc.
Exhibit D	Plaintiffs' First Set of Interrogatories to Operator Defendants
Exhibit E	Plaintiffs' First Set of Interrogatories to Defendants Cendyn Group, LLC and the Rainmaker Group Unlimited, Inc.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was made this 22nd day of May 2023 in San Francisco, California.

/s/Brendan McShane
 Brendan McShane
 of Latham & Watkins LLP
 Counsel for Defendant Cendyn Group, LLC